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February 11, 2020

VIA ECF

The Hon. P. Kevin Castel
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007-1312

RE: SEC v. Telegram, et al., No. 19-cv-9439 (PKC) (S.D.N.Y.)

Dear Judge Castel:

We respectfully write in response to the February 10, 2020, letter submitted by Plaintiff Securities and Exchange Commission (“SEC”), which purports to “direct the Court’s attention to certain additional evidence developed after the conclusion” of the parties’ briefing. The supposed evidence in the SEC’s letter is irrelevant and, in some instances, inaccurately described (including, for example, the SEC’s characterization of one exhibit as a “June 7, 2019 email of Hyman to Telegram investor,” which is in fact an email chain from November 2018, does not involve Mr. Hyman, and was produced by the SEC to Defendants on December 20, 2019, well before the start of briefing).¹

Defendants are mindful of this Court’s admonishment that all substantive submissions on the parties’ motions be made by January 27, 2020, but stand ready to address the SEC’s letter at oral argument or in a short response letter in advance if the Court would prefer. If the Court is inclined to consider the SEC’s late submission, Defendants would welcome the opportunity to provide counter-designations to Mr. Hyman’s deposition and certain other record evidence developed after the close of briefing, to the extent the Court will permit it.

Respectfully submitted,

Alexander C. Drylewski

¹ We also note that the order authorizing Mr. Hyman’s deposition called for it to take place on January 17, but the SEC voluntarily postponed it until February 4, which Defendants did not oppose.